

## **REMARKS**

Applicant respectfully requests that the Examiner enter the foregoing claim amendments, and consider the following remarks.

### ***Section 112 Rejection***

The Examiner stated that the disclosure does not support conductive cooling. However, that rejection should be withdrawn, because the Examiner has admitted, in the last sentence of Page 5 of the April 20, 2004 Office Action, that Applicant's specification discloses conductive cooling. Applicant is nonetheless willing to delete the word "conductive," because the "cooling proximity" language of the claims is sufficient, if the Examiner believes it would advance prosecution of this case toward allowance.

### ***Rejections of Claims 1, 8, 12, 13, and 14***

Claims 1, 8, 12, 13, and 14 were rejected under Section 103(a) as being obvious over Boulter (US Patent No. 6,093,312) in view of Voznick (US Patent No. 5,256,279). Applicant respectfully traverses the rejection, for the following reasons.

Claim 1 has been amended to recite a cabinet that is shared by the treated water source and the host system. This language is intended to clarify a significant distinction between the claimed invention and Boulter. In Claim 1, the treated water source – which comprises a reverse osmosis water treatment system including a flexible reservoir – is integrated with the water-using unit. Boulter does not show such an arrangement. Rather, Boulter shows a traditional approach of using a treated water system to supply more than one water-using unit, wherein the treated water system is a separate system, not integrated with any of the water-using units through common cabinetry. Thus, as none of the cited references disclose, teach or suggest the claimed elements, there can be no proper rejection.

It is also significant that Claim 1 recites a “host system comprising a cooling source, and wherein said reservoir is located in cooling proximity to said cooling source so as to allow conductive cooling of said water in said flexible reservoir . . .” The Examiner has stated that Boulter shows, in its Figure 32, a cooling source located in cooling proximity to the “reservoir.” Applicant respectfully traverses this conclusion. First of all, even if the Boulter Figure 32 shows cooling proximity, it is not between a cooling source and a “reservoir” as claimed in Claim 1. The reservoir of Claim 1 is the flexible reservoir of the recited reverse osmosis water treatment system, which, as part of the treated water source, is (as discussed above) integrated with the water using unit. All Boulter shows is an ice maker supply tank – not a flexible reservoir and R/O system integrated with the ice maker.

Moreover, Boulter shows only reclaiming of harvest overflow water, not cooling due to proximity, as claimed. Applicant has made this point before, and the Examiner has only stated that Boulter does show cooling proximity. Applicant respectfully disagrees, as there is no teaching or suggestion in Boulter to support the conclusion, and the Examiner has pointed to none. Simply because the two elements in Boulter are shown in the same drawing Figure does not mean they are in cooling proximity, as specifically described in Applicant’s specification.

Furthermore, the combination of Boulter and Voznick is inappropriate. The Examiner has attempted to justify the combination with the conclusory statement that “*it would be obvious to one of ordinary skill in the art at the time of the invention to use the teaching of Voznick in the teaching of Boulter to have the RO water inside the bladder for controlling the water stored in the bladder as taught by Voznick.*” (*emphasis supplied.*) Such a conclusory statement is not evidence, and the Examiner has failed to make out a *prima facie* case of obviousness. It is improper to simply lay out a laundry list of elements from the prior art and conclude that it would be obvious to combine them. Without a particularized showing “as to the specific understanding or principle within the

knowledge of the skilled artisan" that would have provided the motivation to combine – and there is none here – the rejection is improper. *In re Kotzab*, 217 F.3d 1365, 1371 (Fed. Cir. 2000). "To imbue one of ordinary skill in the art with knowledge of the invention [at issue], when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher." *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553 (Fed. Cir. 1983). These rejections fall well short of the requirements laid out by the Federal Circuit Court of Appeals for proper rejections.<sup>1</sup>

It is therefore respectfully submitted that Claim 1, and its dependent claims, should be allowed.

#### ***Rejections of Claims 15 and 17-19***

Claims 15 and 17-19 were rejected under Section 103(a) as being unpatentable over Boulter (US Patent No. 6,093,312) in view of Voznick (US Patent No. 5,256,279), further in view of Credle (US Patent No. 5,992,685). Applicant respectfully traverses the

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<sup>1</sup> The Examiner has the burden of showing a *prima facie* case of obviousness. *In re Bell*, 991 F.2d 781, 783 (Fed. Cir. 1993); *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). If such a showing is not made, the rejection must be withdrawn. The showing of obviousness must be "clear and particular," and "broad conclusory statements regarding the teaching" of the prior art are not evidence. *In re Dembicza*k, 175 F.3d 994, 999 (Fed. Cir. 1999). Also, the showing of a teaching, suggestion, or motivation is an "essential evidentiary component of an obviousness holding." *C.R. Bard, Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1352 (Fed Cir. 1998). "One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *In re Fine*, 837 F.2d 1071, 1075 (Fed. Cir. 1988). In analyzing obviousness questions, "[c]are must be taken to avoid hindsight reconstruction by using 'the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims . . .'" (internal citation omitted). *Grain Processing Corp. v. American Maize-Products Co.*, 840 F.2d 902, 907 (Fed. Cir. 1988). Federal Circuit "case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references." *In re Dembicza*k, 175 F.3d 994, 999 (Fed. Cir. 1999). "Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability--the essence of hindsight." *In re Dembicza*k, 175 F.3d 994, 999 (Fed. Cir. 1999). Furthermore, "[d]efining the problem in terms of its solution reveals improper hindsight in the selection of the prior art relevant to obviousness," *Monarch Knitting Mach. Corp. v. Sulzer Morat Gmbh*, 139 F.3d 877, 880 (Fed. Cir. 1998).

rejection, because the Examiner has failed to make a *prima facie* rejection. There is simply no teaching or suggestion in the references that would motivate their combination, and the Examiner has failed to point to any. Only a conclusory statement that it would have been obvious to combine the references has been provided. As discussed above, however, mere conclusions of obviousness, without specific reasons to support the conclusions, cannot be the basis for a proper rejection. Moreover, the Examiner has mischaracterized the Credle reference. It *does not* show a reservoir as claimed in Claim 1. The so-called reservoir pointed to by the Examiner is a concentrate package – not a reservoir for R/O water as claimed.

#### *Rejections of Claims 6, 7, 11, and 12*

Claims 6, 7, 11, and 12 were rejected under Section 103(a) as being unpatentable over Boulter in view of Voznick, and further in view of Blades (US Patent No. 5,536,411). Applicant respectfully traverses the rejection, because the Examiner has failed to make a *prima facie* rejection. Once again, there is simply no teaching or suggestion in the references that would motivate their combination, and the Examiner has failed to point to any. As discussed above, mere conclusions of obviousness, without specific reasons to support the conclusions, cannot be the basis for a proper rejection.

#### *Rejections of Claims 20-25, 27, and 31*

Claims 20-25, 27, and 31 were rejected under Section 102(b) as being anticipated by, or in the alternative, under Section 103(a) as being obvious over Boulter (US Patent No. 6,093,312).

#### **Section 102 Rejection**

With respect to the Section 102 rejection, it is important that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either

expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Indeed, “Every element of the claimed invention must be literally present, arranged as in the claim . . . [and] [t]he identical invention must be shown in as complete detail as is contained in the claim.” *Richardson v. Suzuki Motor Co.*, 868 E2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Here, Claims 20 and 31 include many elements not found in Boulter, and thus Applicant respectfully requests that the Section 102 rejection be withdrawn. Both Claims 20 and 31 have been amended to recite a water-using unit with “a cabinet” and “a treated water source sharing at least part of said cabinet such that said treated water source is integral with the water-using unit . . .” This language emphasizes that the treated water source is integrated with the water-using unit.

Boulter does not show such an arrangement. Rather, Boulter shows a traditional approach of using a treated water system to supply more than one water-using unit. However, in such a traditional system, the treated water system is a separate system, not integrated with any of the water-using units through common cabinetry. In Boulter, the only arguable integration is that they are arranged in a kiosk, but no common cabinet is provided. Moreover, Claim 20 recites “a separate unit remote from said water-using unit such that said separate unit does not share said cabinet . . .” Thus, the separate unit is remote from the combined water treatment system and water using unit, and does not share the cabinet. If one argues that the kiosk is a common cabinet, then there is no separate unit. If the kiosk is not a common cabinet, then there is not an integrated water treatment system and water using unit.

With respect to Claim 31, in addition to the cabinet issue discussed above, clearly Boulter does not show the cooling source located in cooling proximity to the treated water reservoir which is integrated with the water-using unit.

Because independent Claims 20 and 31 include these elements not shown in Boulter, the Section 102 rejection should be withdrawn.

### **Section 103 Rejections**

With respect to the Section 103 rejection of Claim 20, Boulter does not teach or suggest the claimed invention. The claimed invention relates to a system in which a water-using unit (for example, without limitation, an ice maker) is integrated (*by sharing at least part of a cabinet*) with a treated water source, and a separate unit (for example, without limitation, a beverage dispenser) that *does not share the cabinet of the water-using unit*, is supplied by the treated water source. This is in contrast to Boulter, in which a separate (not integrated) water source is used to supply each water-using component. Nowhere is this distinction suggested or taught in Boulter, and Applicant respectfully requests that Claim 20 be allowed.

With respect to the Section 103 rejection of Claim 31, Boulter does not teach or suggest the claimed invention. In addition to the integrated treated water source/water-using unit distinction made above, Claim 31 includes the cooling source located in cooling proximity to the treated water reservoir which is integrated with the water-using unit. As discussed above, these elements are not taught or suggested by Boulter, and thus it is improper to conclude that Boulter renders Claims 31 obvious.

### ***Rejections of Claims 26 and 28-30***

Claims 26 and 28-30 were rejected under Section 103(a) as being obvious over Boulter (US Patent No. 6,093,312) in view of Credle (US Patent No. 5,992,685). Applicant respectfully traverses the rejection, because the Examiner has failed to make a *prima facie* rejection. Once again, there is simply no teaching or suggestion in the references that would motivate their combination, and the Examiner has failed to point to any. As discussed above, mere conclusions of obviousness, without specific reasons to support the conclusions, cannot be the basis for a proper rejection.

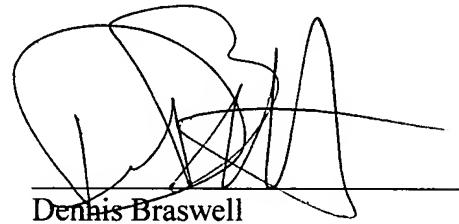
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Applicant respectfully requests allowance of all outstanding claims. If there are any questions concerning this amendment, please call Dennis Braswell at the telephone number set forth below.

**Please direct all correspondence to:**

**Dennis Braswell  
105 Soost Court  
Mobile, Alabama 36608  
Telephone (251) 414-2969.**

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Date



Dennis Braswell  
Attorney for Applicant  
Registration No. 35,831